

### **REMARKS**

In the Notice of Allowability, the Examiner asserted that "Applicants are required to complete the deposit of the claimed *Sinorhizobium meliloti* IFO 14782/pVK601 and *Sinorhizobium meliloti* PY-C341K1 in order to satisfy the requirements of 35 U.S.C. 112, first paragraph, prior to the to the date the issue fee is due." (Notice of Allowability at 2).

The Examiner further asserted that "[o]nce the deposit has been made, information regarding the deposit, such as the name and address of the depository, the accession number and the date of the deposit, that is to be added to the specification must be added by means of filing an amendment under the provisions of 37 CFR 1.312," and "[s]uch an amendment must be filed before or with the payment of the issue fee." (*Id.* at 2-3).

As suggested by the Examiner, and with a view towards moving this case to issuance, Applicants confirm that strain *Sinorhizobium (Ensifer) meliloti* IFO 14782/pVK601 was deposited on February 29, 2008 under deposit number DSM 21235 at the DSMZ (Deutsche Sammlung von Mikroorganismen und Zeilkulturen GmbH) under the terms of the Budapest Treaty. (See Exhibit 1). Applicants also confirm that strain *Sinorhizobium (Ensifer) meliloti* PY-C341K1 was deposited on February 29, 2008 under deposit number DSM 21236 at the DSMZ under the terms of the Budapest Treaty. (See Exhibit 2).

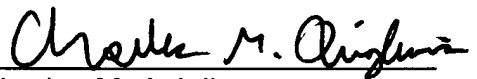
The specification has also been amended, as directed by the Examiner, to include information regarding the deposit particulars, such as the name and address of the depository, the accession number and the date of the deposit.

It is submitted that these amendments are formal in nature, and no new matter has been introduced by the foregoing amendments. Approval and entry of the amendments is respectfully solicited.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 7, 2008.

  
Charles M. Avigiliano, Reg. No. 52,578

Respectfully submitted,

By:   
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BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE



INTERNATIONAL FORM

DSM IP Assets B.V.

Het Overloon 1

NL-6411 TE Heerlen

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

<b>I. IDENTIFICATION OF THE MICROORGANISM</b>	
Identification reference given by the DEPOSITOR: IFO 14782/pVK601	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  DSM 21235
<b>II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION</b>	
The microorganism identified under I. above was accompanied by:  ( ) a scientific description ( x ) a proposed taxonomic designation (Mark with a cross where applicable).	
<b>III. RECEIPT AND ACCEPTANCE</b>	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on 2008-02-29 (Date of the original deposit) <sup>1</sup> .	
<b>IV. RECEIPT OF REQUEST FOR CONVERSION</b>	
The microorganism identified under I above was received by this International Depositary Authority on (date of original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH  Address: Inhoffenstr. 7 B D-38124 Braunschweig	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):  <i>V. Wechs</i>  Date: 2008-03-04

<sup>1</sup> Where Rule 6.4 (d) applies, such date is the date on which the status of international depositary authority was acquired.

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INTERNATIONAL FORM

DSM IP Assets B.V.

Het Overloon 1

NL-6411 TE Heerlen

VIABILITY STATEMENT  
issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

<b>I. DEPOSITOR</b>		<b>II. IDENTIFICATION OF THE MICROORGANISM</b>	
Name: DSM IP Assets B.V. Het Overloon 1 Address: NL-6411 TE Heerlen		Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  DSM 21235  Date of the deposit or the transfer <sup>1</sup> :  2008-02-29	
<b>III. VIABILITY STATEMENT</b>			
The viability of the microorganism identified under II above was tested on 2008-02-29 On that date, the said microorganism was  (X) <sup>2</sup> viable ( ) <sup>3</sup> no longer viable			
<b>IV. CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED<sup>4</sup></b>			
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>			
Name: DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH  Address: Inhoffenstr. 7 B D-38124 Braunschweig		Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):    Date: 2008-03-04	

- <sup>1</sup> Indicate the date of original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).  
<sup>2</sup> In the cases referred to in Rule 10.2(a) (ii) and (iii), refer to the most recent viability test.  
<sup>3</sup> Mark with a cross the applicable box.  
<sup>4</sup> Fill in if the information has been requested and if the results of the test were negative.

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INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <b>PY-341-K1</b>	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  <b>DSM 21236</b>
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by:  <input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation (Mark with a cross where applicable).	
III. RECEIPT AND ACCEPTANCE	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on <b>2008-02-29</b> (Date of the original deposit) <sup>1</sup>	
IV. RECEIPT OF REQUEST FOR CONVERSION	
The microorganism identified under I above was received by this International Depositary Authority on _____ (date of original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on _____ (date of receipt of request for conversion).	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: <b>DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH</b>  Address: <b>Inhoffenstr. 7 B D-38124 Braunschweig</b>	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):    Date: <b>2008-03-04</b>

<sup>1</sup> Where Rule 6.4 (d) applies, such date is the date on which the status of international depositary authority was acquired.

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The viability of the microorganism identified under II above was tested on 2008-02-29 <sup>2</sup> On that date, the said microorganism was  (X) <sup>3</sup> viable ( ) <sup>3</sup> no longer viable			
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED <sup>4</sup>			
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Name: DSMZ-DEUTSCHE SAMMLUNG VON MIKROORGANISMEN UND ZELLKULTUREN GmbH  Address: Inhoffenstr. 7 B D-38124 Braunschweig		Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):    Date: 2008-03-04	

- <sup>1</sup> Indicate the date of original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).  
<sup>2</sup> In the cases referred to in Rule 10.2(a) (ii) and (iii), refer to the most recent viability test.  
<sup>3</sup> Mark with a cross the applicable box.  
<sup>4</sup> Fill in if the information has been requested and if the results of the test were negative.